



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, सोमवार, 4 नवम्बर, 2013 / 13 कार्तिक, 1935

हिमाचल प्रदेश सरकार

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla, the 1st November, 2013

No. HPERC/F(5)(3)(1)(Retail).—WHEREAS the Himachal Pradesh Electricity Regulatory Commission has framed the HPERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission is making an exercise to determine the tariff for distribution licensee for the next control period starting from 1st April, 2014;

NOW, THEREFORE, in exercise of the powers conferred by clauses (zd), (ze) and (zf) of sub-section (2) of section 181, read with sections 61, 62 and 86, of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Himachal Pradesh Electricity Regulatory Commission makes the following amendments to the HPERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011, published in the Rajpatra, Himachal Pradesh, dated 2nd April, 2011, namely:-

REGULATIONS

Short title and commencement.—(1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) (Second Amendment) Regulations, 2013.

(2) These amendment regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh, and shall be applicable for the tariff orders to be issued for the control periods commencing with effect from 1st April, 2014 and thereafter.

1. Amendment of regulation 2.—In regulation 2 of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (hereinafter called the “said regulations”), after clause (16), the following clause (16-a) shall be inserted, namely:-

“(16-a) **“performance review”** means the review of performance of the distribution licensee undertaken by the Commission annually for the 2nd and successive years of the control period and this shall include the mid-term performance review carried out for the year after the mid-year of the control period, the annual performance reviews carried out for the years other than the first year, the true-up of the previous control period and true-up of previous years of the control period;”

2. Amendment of regulation 4 – In regulation 4 of the said regulations –

(a) after clause (c), the following clause (cc) shall be inserted, namely:-

“(cc) **Uncontrollable parameters** shall include power purchase and power sale by the distribution licensee;”

(b) for clause (d), the following clauses (d) and (dd) shall be substituted, namely:-

“(d) **annual performance review (APR)** shall be conducted for the variations in performance on account of uncontrollable parameters for each year of the control period vis-à-vis the ARR approved in the first year of the control period for those years;

(dd) **mid-term performance review (MPR)** shall be conducted for the year after the mid-year of the control period and shall comprise the annual performance review for that year on account of uncontrollable parameters and for the variations in performance on account of controllable parameters for the control period vis-à-vis the ARR approved in the first year of the control period; ”

(c) for clause (f), the following clause (f) shall be substituted, namely:-

“(f) **Variation in revenue/cost** on account of uncontrollable parameters shall be trued up annually during the annual performance review.”

3. Insertion of provisos to regulation 7.—At the end of regulation 7 of the said regulations, the following provisos shall be inserted, namely:-

“Provided that the Commission may, while setting the targets, also incorporate suitable mechanisms for automatic adjustments in these targets in case of substantial changes in the basic assumptions/ inputs taken into account and may also provide for the requirements in respect of such components of the O&M expenditure as it may consider appropriate as per actual:

Provided further that, based upon abnormal variations in controllable parameters (distribution losses, operation and maintenance expenditure, financing cost and depreciation) and for reasons beyond the control of the distribution licensee, the Commission may, at the time of mid-term performance review, review the approved expenditure vis-à-vis the actual expenditure for these controllable parameters and revise the targets set for the balance years of the control period.”

4. Amendment of regulation 9.—In regulation 9 of the said regulations –

(a) in sub regulation (4), for clause (d), the following clause (d) be substituted, namely:-

“ (d) Financing plan showing the details for funding of the proposed investment i.e. through loan from financial institutions, equity grants and subsidies and consumer contribution, if any, for the specific work and utilization of other capital receipts as per provisions of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012;”

(b) for the sub-regulation (6), the following sub-regulation (6) shall be substituted, namely:-

“(6) The Commission may review the capital expenditure incurred and capitalization at the end of each year of the control period vis-à-vis the approved capital expenditure and capitalization schedule. In the normal course, the Commission shall not revisit the approved capital investment plan (capital expenditure and the capitalization schedule) on yearly basis during the control period and adjustments to depreciation, interest on capital loan and return on equity on account of variations for the actual capital expenditure incurred and capitalization made vis-à-vis approved capital investment plan (capital expenditure and capitalization), shall be done during the mid-term performance review and at the time of end of control period true up.”

5. Amendment of regulation 11 – For existing regulation 11 of the said regulations, the following regulation 11 shall be substituted, namely:-

“11. True Up

(1) The true up across various parameters shall be conducted by the Commission, for the previous years for which the actual/ audited accounts are made available by the distribution licensee, at the times and as per principles stated below:-

(A) at the times –

(i) for the previous years of the previous control period for which true-up has not been carried out and/or for the previous control period:- true up shall be done along with the MYT/APR petition(s) filed for/during the control period;

- (ii) for the previous years of the control period:- true up shall be done along with the annual performance reviews (APRs) filed during the control period;
- (iii) for the control period and/or for the years of the control period for which true-up is not carried out during the control period- true up shall be done along with the MYT/APR petition(s) filed for/during the next control period;

Provided that the Commission may entertain true up proposals even prior to the above times if the accounts of the licensee are finalized;

(B) as per principles –

- (a) Variation in revenue / expenditure on account of uncontrollable sales and power purchase shall be trued up every year. Truing-up shall be carried out based on the actual/audited information and prudence check by the Commission:

Provided that if such variations are large, and it is not feasible to recover in one year alone, the Commission may take a view to create a regulatory asset, as per the guidelines provided in clause 8.2.2 of the National Tariff Policy:

Provided further that under business as usual conditions, the Commission, to ensure tariff stability, may include the opening balances of uncovered gap /trued-up costs in the subsequent control period's ARR instead of including in the year succeeding the relevant year of the control period after providing for transition financing arrangement or capital restructuring;

(b) for controllable parameters –

- (I) any surplus or deficit on account of the O&M expenses shall be to the account of the licensee and shall not be trued up in ARR unless such is treated as uncontrollable by the Commission in accordance with these regulations;
- (II) any surplus or deficit on account of the distribution losses shall be shared between the licensee and the consumers in accordance with these regulations;
- (III) during mid-term performance review and during the end of the control period true up –
 - (i) O&M expenses treated as uncontrollable may be trued-up on the basis of actual/ audited information and prudence check by the Commission;
 - (ii) any surplus or deficit on account of variations in the costs and targets of distribution losses treated as uncontrollable, may be trued-up on the basis of actual/ audited information and prudence check by the Commission and shall be shared between the licensee and the consumers in accordance with these regulations;
 - (iii) the Commission shall review the actual capital investment vis-à-vis approved capital investment;

- (iv) depreciation and financing cost, which includes cost of debt including working capital (interest), cost of equity (return) shall be trued up on the basis of actual/ audited information and prudence check by the Commission.
- (2) The distribution licensee, for the approved true-up of any year over and above that approved in the Tariff Order for that year, shall be entitled to a carrying cost at the Base Rate of State Bank of India plus 350 basis points and for any true-up resulting in less than that approved in the Tariff Order for that year, the carrying cost shall be recovered at the same rate.
- (3) Notwithstanding anything contained in these regulations, the gains or losses in the controllable items of ARR on account of force majeure, change in law and change in taxes and duties after adjusting for proceeds from any insurance scheme, if any, shall be passed on as an additional charge or rebate in ARR over such period as may be mentioned in the order of the Commission.”

6. Substitution of regulation 14.—For regulation 14 of the said regulations, the following regulation 14 shall be substituted, namely:-

“14. Cost of Power Procurement

- (1) The licensee shall forecast sales for each customer category and sub-categories for all years of the control period as well as the corresponding source wise power procurement in their business plan filings, for the Commission’s review and approval. The category-wise sale forecast shall be applied alongwith distribution loss trajectory for estimating the licensees’ power procurement for each year of the control period:

Provided that, such sales forecast and power procurement planning proposed by the licensee for providing unrestricted/ round the clock supply to the consumers, shall take into consideration factors such as past trends and various econometric factors giving due consideration to economic condition, anticipated development and growth in the State, etc. using appropriate methodologies and techniques.”

- (2) The distribution licensee shall be allowed to recover the cost of power it procures in the most economical manner from sources approved by the Commission (viz. intra-State and inter-State trading licensees, bilateral purchases, bulk suppliers, State generators, independent power producers, Central generating stations, renewable and co-generation sources, generation business of the distribution licensee and other sources) at tariff rates approved by the appropriate Commission from time to time:

Provided that the distribution licensee shall propose the cost of power procurement taking into account the fuel adjustment formula specified for the generating stations and net revenues/ costs through bilateral exchanges and unscheduled interchange (UI) transactions:

Provided further that, where the licensee utilizes a part of the power purchase approved or bulk supply allocated or contracted for the retail supply business for its trading business, the distribution licensee shall provide an allocation statement clearly specifying the cost of power purchase that is attributable to such trading activity:

Provided also that, to facilitate round-the-clock supply to all the consumers in the State, the licensee shall in accordance with these regulations, prepare a detailed power procurement plan comprising reasonable contingent surplus.

- (3) While approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased from various sources in accordance with the principles of merit order of power purchase. All power purchase costs will be considered legitimate unless it is established that the merit order principle has been materially violated or power has been purchased at unreasonable rates.
- (4) The renewable purchase obligation of the distribution licensee will be as per the relevant regulations made by the Commission.
- (5) The licensee shall avail maximum rebate available from each source for early payment of power purchase bills such as through letter of credit:

Provided that, 25% of the maximum normative rebate available to the licensee shall be allowed to be retained by him and the remaining 75% of the maximum normative available rebate shall be adjusted in the Power Procurement Cost:

Provided further that, the delayed payment surcharge, if any, paid by the licensee against the Power Purchase Bills shall be to the account of the licensee.”

7. Substitution of regulation 15.—For regulation 15 of the said regulations, the following regulation 15 shall be substituted, namely:-

“15. Distribution Losses

- (1) The target for the distribution loss levels to be achieved by the distribution licensee during the control period and the year-wise loss reduction trajectory for the control period shall be fixed in the multi-year tariff order:

Provided that, the Commission may, based upon the actual information submitted by the licensee in respect of variations in the mix of consumers or sales at various voltage levels vis-à-vis that already approved, at the time of mid-term performance review, review the costs approved vis-à-vis the actual on account of the distribution loss and revise the targets set for the distribution loss for the balance years of the control period:

Provided further that, the mechanism for pass-through of gains or losses on account of variations in the distribution loss as a result of revision in costs and targets vis-à-vis that approved shall be as follows:-

- (a) The approved aggregate gain to the distribution licensee on account of controllable factor of distribution loss shall be dealt with in the following manner:-
 - (i) 40% of the amount of such gains shall be adjusted in ARR over such period as may be stipulated in the Order of the Commission;
 - (ii) The balance 60% of such gains, may be utilized at the discretion of the distribution licensee;

- (b) The approved aggregate loss to the distribution licensee on account of controllable factor of distribution loss shall be dealt with in the following manner:-
- (i) 40% of the amount of such loss may be passed on in the ARR over such period as may be stipulated in the Order of the Commission; and
 - (ii) The balance 60% of amount of such loss shall be absorbed by the licensee;
- (c) Gains and losses on account of controllable factors during the control period shall be shared in the aforesaid manner at the time of mid-term Performance Review and also at the time of tariff determination process of the next control period;
- (d) The gain or loss on account of controllable factors other than the distribution loss, unless otherwise specifically provided by the Commission in these Regulations, shall be to the account of the distribution licensee;
- (2) The licensee shall also propose circle-wise baseline distribution loss levels and loss reduction trajectory for each year of the control period. The distribution licensee shall also propose voltage-wise losses for each year of the control period for the determination of voltage-wise cost of supply and determination of voltage-wise wheeling tariff:

Provided that, till the actual data on voltage wise losses is not available, the distribution licensee shall submit best estimates of the voltage-wise losses.

- (3) The Commission may fix circle-wise and voltage-wise losses with suitable mechanisms and modifications as it may consider necessary. On the basis of circle-wise distribution loss, the Commission may fix circle-wise differential tariff by way of separate and distinct distribution loss surcharge. ”

8. Amendment of Regulation 17.—In regulation 17 of the said regulations –

- (a) after sub-regulation (1), the following sub-regulation (1-a) shall be inserted, namely:-

“ (1-a) O&M Norms –

- (i) The licensee shall propose separate trajectories of norms for each of the components of O&M expenses viz., employee cost, R&M expense and A&G expense;
- (ii) Norms shall be defined in terms of combination of number of personnel for various activities such as per 1000 consumers and number of personnel per substation, line length alongwith annual expenses per personnel for Employee expenses combination of A&G expense per personnel and A&G expense per 1000 consumers for A&G expenses and R&M expense as percentage of gross fixed assets for estimation of R&M expenses;
- (iii) One-time expenses such as expense due to change in accounting policy, arrears paid due to pay commissions and interim relief etc., shall be excluded from the norms in the trajectory;

- (iv) The expenses beyond the control of the distribution licensee such as dearness allowance, pension liabilities and terminal benefits in Employee cost etc., shall be excluded from the norms in the trajectory;
- (v) The One-time expenses and the expenses beyond the control of the Distribution Licensee as per sub-regulations (c) and (d) above shall be allowed by the Commission over and above normative Operation & Maintenance Expenses after prudence check;
- (vi) The norms in the trajectory shall be proposed over the control period with due consideration to productivity improvements and commercial viability;
- (vii) The norms shall be proposed at constant prices of base year and escalation on account of inflation shall be over and above the baseline;
- (viii) The Distribution Licensee shall also carry out absolute and relative analysis while proposing the norms;
- (ix) In absolute analysis, Distribution Licensee's audited accounts of operations for last three years, expenses claimed for control period, historically approved cost, and prudence check shall be used by the Commission to estimate values of norms;
- (x) In relative analysis, performance parameters of other Distribution Licensees within the same state or in other states shall be considered by the commission to estimate norms:

Provided that other Distribution Licensees so chosen shall have similar profile as that of the Distribution Licensee under consideration in terms of consumer mix, type of license area (city, state, etc.) type of distribution networks, viz, underground/overhead, HT-LT ratio, etc;

- (xi) Suitable average of outcomes of absolute and relative analysis may be taken by the licensee while proposal the norms over the control period for the distribution licensee;
- (xii) Based on the proposal submitted by the licensee, the Commission shall fix the norms for the said purposes which shall be taken into account for determining the trajectories for various components of O&M expenses for the remaining years of the control period;
- (xiii) Till such time the norms are fixed by the Commission, the trajectories of various components of O&M expenses shall be submitted by the licensee and determined by the Commission on the basis of the actual costs for the previous years in accordance with the provisions of these regulations;”

- (b) for the sub-regulation (3), the following sub-regulation (3) shall be substituted, namely:-

“(3) The O&M expenses for the n^{th} year of the control period shall be approved based on the formula given as follows:-

$$O\&M_n = R\&M_n + EMP_n + A\&G_n :$$

Where –

$$R\&M_n = K \times GFA_{n-1};$$

$$EMP_n = [(EMP_{n-1}) \times (1+G_n) \times (CPI_{inflation})] + Provision_{(Emp)};$$

$$A\&G_n = [(A\&G_{n-1}) \times (WPI_{inflation})] + Provision_{(A\&G)};$$

‘K’ is a constant (could be expressed in %). Value of K for each year of the control period shall be determined by the Commission in the MYT Tariff order based on licensee’s filing, benchmarking of R&M expenses, approved R&M expenses vis-à-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;

$CPI_{inflation}$ – is the average increase in the Consumer Price Index (CPI) for immediately preceding three or five years before the base year, whichever is higher;

$WPI_{inflation}$ – is the average increase in the Wholesale Price Index (CPI) for immediately preceding three or five years before the base year, whichever is higher;

EMP_{n-1} & EMP_n – employee costs of the distribution licensee for the (n-1)th and nth year; (employee cost for the base year would be adjusted for provisions for (n-1)th year for the items corresponding to clauses (iii), (iv) and (v) of subregulation (1-a) of regulation 17);

$Provision_{(Emp)}$: Provision corresponding to clauses (iii), (iv) and (v) of subregulation (1-a) of regulation 17, duly projected for relevant year for expenses beyond control of the distribution licensee and expected one-time expenses as specified above;

$A\&G_{n-1}$ & $A\&G_n$ – administrative and general costs of the distribution licensee for the (n-1)th and nth year;

$Provision_{(A\&G)}$: Cost for initiatives or other one-time expenses as proposed by the distribution licensee and validated by the Commission;

$R\&M_{n-1}$ & $R\&M_n$ – repair and maintenance costs of the distribution licensee for the (n-1)th and nth year;

GFA_{n-1} – Gross Fixed Asset of the distribution licensee for the (n-1)th year;

G_n is a growth factor for the nth year. Value of G_n shall be determined by the Commission in the MYT tariff order for meeting the additional manpower requirement based on licensee’s filings, benchmarking, and approved cost by the Commission in past and any other factor that the Commission feels appropriate:

Provided that, R&M expenses determined shall be utilised towards R&M works only;

Note: After the fixation of norms of various components of O&M expenses as per these regulations, the above formulae shall be suitably modified in line with the provisions.”

9. Substitution of regulation 22.—For existing regulation 22 of the said regulations, the following regulation 22 shall be substituted, namely:-

“22. Interest Charges on Working Capital

Rate of interest on working capital shall be on normative basis and shall be equal to the average base rate of the last six months prior to the filing of the MYT petition plus 350 basis points. The interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency or has exceeded the working capital loan based on the normative figures. The Commission shall calculate working capital requirement for wheeling and retail supply business in accordance with these regulations to arrive at working capital requirement of distribution licensee.”

10. Amendment of regulation 25.—For sub-regulation (1) of regulation 25 of the said regulations, the following sub-regulation (1) shall be substituted, namely:-

“(1) All incomes being incidental to electricity business and derived by the licensee from sources, including but not limited to profit derived from disposal of assets, rents, meter rent (if any), income from investments other than contingency reserves, miscellaneous receipts from the consumers but excluding delayed payment surcharge and income to licensed business from the other business of the distribution licensee shall constitute non-tariff income of the licensee.”

11. Amendment of regulation 26.—For regulation 26 of the said regulations, the following regulation 26 shall be substituted, namely:-

“26. Other Income of the Licensee

- (1) Where the licensee is engaged in any other business, the income from such business will be calculated in accordance with the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2005 and shall be deducted from the aggregate revenue requirement in calculating the revenue requirement of the licensee.
- (2) The licensee shall maintain separate accounts and sub balance sheets for each of the other business such as Generation (existing stations), Survey & Investigation of new power projects, investments in the existing new projects etc.

Provided that the licensee shall follow a reasonable basis for allocation of all joint and common costs between the distribution business and the other business and shall submit the allocation statement, as approved by its board of directors, to the Commission alongwith his application for determination of tariff:

Provided further that where the sum total of the direct and indirect costs of such other business exceeds the revenues from such other business or for any other reason, no

amount shall be allowed to be added to the aggregate revenue requirement of the licensee on account of such other business.”

12. Amendment of regulation 27.—In regulation 27 of the said regulations-

- (a) At the end of sub-regulation (1) of regulation 27 of the said regulations, the following provisos shall be inserted, namely:-

“Provided that, to promote cogeneration and generation of electricity from renewable energy sources, the Commission while determining the wheeling charges shall give due consideration to the Renewable Purchase Obligation of the distribution licensee:

Provided further that, the Commission based upon high energy consumption of commercial, industrial and any other consumer category may determine the threshold of such high consumption and levy a green charge in the form of surcharge upon such consumers. ”

- (b) for sub-regulation (2), the following sub-regulation (2) shall be substituted, namely:-

“(2) The distribution licensee shall maintain separate books of accounts for wheeling and retail supply business. For such period until accounts are segregated and separate books of accounts are maintained, the Commission shall stipulate the ratio of allocation of all expenses and return component, based on data obtained from the distribution licensee.”

13. Amendment of regulation 29 .—In regulation 29 of the said regulations, for the words and figure “in accordance with regulation 19”, the words “in accordance with these regulations” shall be substituted.

14. Substitution of regulation 34.—For existing regulation 34 of the said regulations, the following regulation 34 shall be substituted, namely:-

“34. Quality of Supply and Services

- (1) The quality of supply and the customer service parameters shall be monitored as per the norms specified by the Commission from time to time.
- (2) The licensee shall propose baseline and performance trajectory for quality parameters for wheeling and retail supply business in its business plan as specified in the Standards of Performance Regulations framed under sub-section (1) of section 57 and sub-section (1) of section 59, read with clauses (za) and (zb) of sub-section (2) of section 181, of the Act.
- (3) The Commission shall make an assessment on reliability of baseline data and may prescribe the performance trajectory for each identified parameter for the control period which shall be complied with by the distribution licensee. The Commission shall develop a performance framework to encourage licensees to improve quality of supply and services.

- (4) Recovery of the Annual Revenue Requirement determined as per the norms under these regulations shall be based on achievement of the target availability index as follows:-

- (a) The Availability index shall be computed for both Wheeling Business and Supply Business of the Distribution Licensee on yearly basis as per following:-

- (i) For Wheeling Business:

$$\text{Wheeling Network Availability Index (\%)} = (1 - (\text{SAIDI}/8760)) \times 100$$

Where,

SAIDI = calculated under HPERC (Distribution Performance Standards) Regulations, 2010;

- (ii) For Supply Business:

The Supply Availability shall be measured on the basis of power contracted by the Distribution Licensee on a long-term basis as per the power procurement plan under following heads:

$$\text{Base Load Supply Availability} = ((\text{Actual Contracted Base Load Supply (MW)}) \times (\text{Number of Off-Peak hours})) / ((\text{Base Load in MW}) \times (\text{Number of Off-Peak hours}));$$

$$\text{Peak Load Supply Availability} = ((\text{Actual Contracted Peak Load Supply (MW)}) \times (\text{Number of Peak hours})) / ((\text{Peak load in MW}) \times (\text{Number of Peak hours}));$$

$$\text{Supply Availability Index} = 75\% \text{ of Base Load Supply Availability} + 25\% \text{ of Peak Load Supply Availability};$$

- (b) The distribution licensee shall maintain data on planned maintenance outages, load shedding, force majeure outages and trippings;
- (c) The incentive/disincentive shall exclude the circumstances when the actual supply differs from the contracted supply due to force majeure situations, weather conditions, extreme monsoon failure, station outages, etc. which are beyond the control of the Distribution Licensee;
- (d) The Commission shall specify progressively increasing normative levels of Availability for Wires and Supply Business of the Distribution Licensee on the basis of past performance over the control period;

Provided that the Availability of Supply Business shall not be lower than 90% and shall gradually increase to 95%;

- (e) The gains and losses in the ARR shall be considered as $\pm 0.2\%$ of ARR or any other percentage as may be determined by the Commission for every percentage point increase/decrease in availability vis-à-vis the normative levels of availability;

Provided that the maximum additional return that can be earned/reduced shall be $\pm 2\%$ of ROE or any other percentage as may be determined by the Commission.”

15. Substitution of regulation 36.—For existing regulation 36 of the said regulations, the following regulation 36 shall be substituted, namely:-

“36. Beginning of the control period – business plan filings

In the base year, prior to the filing of multi-year ARR cum Tariff petition, the distribution licensee shall file a business plan approved by its board of directors. The business plan shall be for the entire control period and shall, inter-alia, contain –

- (a) sales/demand forecast for each customer category and sub-categories for each year of the control period;
- (b) distribution loss reduction trajectory for each year of the control period;
- (c) collection efficiency for each year of the control period;
- (d) power procurement plan – comprising monthly/annual Demand (MW) and Energy (MU) requirements, along with economic depictions, based upon the power procurement sources (existing/upcoming), sales forecasts (restricted/unrestricted demand, base load/peak load/off load power requirement) and distribution loss trajectory and may also include energy conservation, energy efficiency and demand side management measures:

Provided that, the licensee may source its primary power requirements from longterm/medium-term sources and only unforeseen shortfalls may be sourced from short-term sources:

Provided further that, an additional quantum of 5% of the power requirement may be kept as contingent surplus to take care of events resulting in shortfall on account of reasons beyond the control of the licensee:

Provided also that, where the Commission has stipulated a percentage of the total consumption of electricity in the area of a distribution licensee to be purchased from co-generation and renewable sources of energy, the power procurement plan of such distribution licensee shall include the plan for procurement from such sources at least up to the specified level;

- (e) capital investment plan (CAPEX plan): The Commission shall approve the capital investment of the licensee for the control period, the CAPEX plan being based upon load forecasts, load flow studies/power evacuation plans/plan drawn by the State Transmission Utility (STU), system improvement (distribution loss reduction, reliability / quality of supply etc.) and the corresponding capitalization schedule and financing plan, the appropriate capital structure of each scheme proposed and cost of financing (interest on debt and return on equity), terms of loan agreements, etc:

Provided that, the consumer contributions towards cost of capital assets and the assets so created shall be accounted for separately as per standard accounting principles;

- (f) Operation & Maintenance (O&M): The filing shall be in accordance with the provisions of sub-regulation (1-a) of regulation 17 of these regulations and shall include the fresh recruitments proposed at various levels and the major Repair and Maintenance (R&M) works proposed during each year of the control period along with estimated costs;
- (g) details of depreciation based on the useful life of the asset and capitalization schedules for each year of the control period;
- (h) a set of targets proposed for other items such as collection efficiency, bad debts, working capital, quality of supply targets, etc. The targets shall be consistent with the capital investment plan proposed by the licensee;
- (i) proposals for other items such as external parameters used for indexation (inflation, etc);
- (j) other information: this shall include any other details considered appropriate by the distribution licensee for consideration during determination of tariff; and
- (k) the filings in addition to the control period data, shall also contain the data for the cost and revenue parameters for the last three years.”

16. Substitution of regulation 37.—For existing regulation 37 of the said regulations, the following regulation 37 shall be substituted, namely:-

“ 37. Aggregate Revenue Requirement (Multi-year, APR and MPR) and tariff filings during the control period

- (1) The distribution licensee shall file not less than 120 days before the commencement of the first year of the control period or such other date as may be directed by the Commission, an application for approval of multi-year Aggregate Revenue Requirement (ARR) for each year of the control period and determination of wheeling and retail supply tariff for the first year of the control period.
- (2) For the subsequent years of the control period, in the APR and MPR filings, the distribution licensee shall file not less than 120 days before the commencement of the respective year of the control period or such other date as may be directed by the Commission, an application for the approval of annual Aggregate Revenue Requirement (ARR) and for determination of wheeling and retail supply tariff for the respective year.
- (3) The licensee for the APR shall file for adjustments to multi-year ARR approved in first year of control period on account of uncontrollable parameters and for the MPR shall file for adjustments to approved multi-year ARR on account of both controllable and uncontrollable parameters:

Provided that the during the MPR, the Commission may revise the trajectories for various controllable parameters for the remaining period of the control period and this shall be deemed to give consequential effect to the ARR approved in the first year of the control period.

(4) The filings for wheeling tariff shall contain the following:-

- (a) the distribution system or network usage forecast for each year of the control period, consistent with the business plan;
- (b) proposals for computation of tariffs for wheeling of electricity for each of the years of the control period, including the voltage-wise losses, adjustment of losses in the system and the procedure thereof;
- (c) proposals for non-tariff income, with item-wise description and details;
- (d) proposals in respect of income from other businesses like consultancy services, convergence, training facilities, etc;
- (e) proposed energy based wheeling tariff (voltage-wise);
- (f) expected revenue from the proposed wheeling tariff, including additional surcharge etc.

(5) The filings for retail supply tariff shall contain the following:-

- (a) the licensee's proposal for retail sale of electricity for the consumers pertaining to retail supply business, which shall include energy sales, tariffs for each consumer category, slab-wise and voltage-wise. The proposed tariff may also be based on energy charges, demand charges, minimum charges, etc alongwith the tariff rationalization measures;
- (b) proposal for power procurement quantum based upon energy sales and distribution losses, cost of power purchase, transmission and load despatch charges etc;
- (c) proposals for non-tariff income with item-wise description and details;
- (d) proposals in respect of income from other businesses like consultancy services, convergence, training facilities, etc;
- (e) expected revenue from the proposed retail supply tariff, and other matters considered appropriate by the distribution licensee, including incentive schemes to consumers, cross-subsidy surcharge, etc;
- (f) Each tariff proposal submitted by the distribution licensee shall be progressively compliant of the various principles enunciated in the regulation 41-B of these regulations and demonstrate that the tariffs are progressively reflecting the cost of supply.

(6) The licensee shall furnish to the Commission, such additional information, particulars and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.

(7) The licensee shall publish, for the information of the public, the contents of the application in an abridged form in such manner as the Commission may direct and shall host the complete copy of the filing on its website and shall

also provide copies of the documents filed with the Commission to any person at a price not exceeding normal photocopying charges. ”

17. Substitution of regulation 38.—For existing regulation 38 of the said regulations, the following regulation 38 shall be substituted, namely:-

“38. Review during the control period

- (1) The distribution licensee shall submit information as part of annual review on actual performance vis-à-vis performance targets approved by the Commission at the beginning of the control period, profit sharing mechanism for exceeding the targets, and implementation of performance framework for quality of supply targets.
- (2) The revised estimates shall be required because of trued-up costs on account of variations in uncontrollable parameters in respect of APR and variations in both controllable and uncontrollable parameters in respect of MPR. ”

18. Addition of regulation 41-A.—After regulation 41 of the said regulations, the following new regulation 41-A. shall be added, namely:-

“ 41-A. Adherence to Tariff Order

- (1) If the distribution licensee recovers a price or charge exceeding the tariff determined under Section 62 of the Act and in accordance with these Regulations, the excess amount shall be recoverable by the person who has paid such price or charge, along with interest equivalent to the Base Rate of State Bank of India plus 350 basis points without prejudice to any other liability incurred by the distribution licensee.
- (2) The distribution licensee shall submit periodic returns as may be required by the Commission, containing operational and cost data to enable the Commission to monitor the implementation of its Order.”

19. Amendment of Title “SUBSIDY” of Part V of the Regulations.—For the existing title of Part V of the said regulations, the following title shall be substituted, namely:-

“SUBSIDY, COST of SUPPLY and CROSS SUBSIDY”

20. Addition of regulation 41-B.—Before regulation 42 of the said regulations, the following regulation 41-B shall be added, namely:-

“41-B. Cost of Supply and Cross Subsidy

- (1) In accordance with the National Electricity Policy and National Tariff Policy, the Commission shall allow recovery of efficient and prudent cost of supply of electricity by the licensee from the consumers to make the power sector sustainable.
- (2) The Commission shall be guided by the objective that the tariff progressively reflects the efficient and prudent cost of supply of electricity. The Commission shall also continuously endeavour to rationalise the tariff structures to encourage efficient and prudent end use of electricity.

- (3) The Commission shall progressively and gradually reduce the existing cross subsidies without giving tariff shocks to any consumer category and to achieve the objective the Commission shall –
- (a) restrict the cross subsidy, while fixing the tariff for 2014-15, for various consumer categories other than the life line domestic consumers, to a level of $(\pm)20\%$ of the average cost of supply;
 - (b) indicate a roadmap for reduction and/or rationalization of cross subsidies in the MYT Orders for the Control Periods starting from 1.4.2014 and thereafter. The road map shall be based on the approach of a gradual reduction/rationalization in cross subsidy, guided by the principles laid down in the National Tariff Policy, with a target that by the end of the control period starting from 1.4.2014 tariffs for the consumer categories, other than the life line category, are within $(-)15\%$ to $(+)10\%$ of the average cost of supply and by the end of the subsequent control period, the same are within $(-)10\%$ to $(+)5\%$;
 - (c) The life line domestic consumers shall continue to receive a special support through cross subsidy:

Provided that the tariff of the life line domestic consumers shall not be less than 50% of the average cost of supply.

- (4) Till such time the overall average per unit tariffs for various categories, other than Life line category, are brought within $(-)10\%$ to $(+)5\%$ of the average cost of supply as per sub regulation (3) the Commission shall base the tariff fixation exercise during such interim periods on the basis of average cost of supply.
- (5) During the interim periods as mentioned as sub regulations (3) and (4), the Commission shall, with an objective of broadly assessing, the trends and levels of category wise cost of supply for indicative purposes also carry out suitable exercise based on the available data, suitable assumptions and the concepts as may be considered appropriate. The Commission shall broadly follow the following methodologies for allocation of costs for the purpose of cost to serve calculations.
 - (a) **Functionalization and classification of Cost** – Total cost shall be divided on the basis of functions performed such as power purchase, distribution etc. Each of the functionalized cost shall be further classified, based on its intrinsic nature into Demand related cost, Energy related cost and Customer related cost. Demand related costs shall generally be of fixed nature related to capacity creation and shall include interest on capital borrowing, depreciation etc. Energy cost shall be related to quantum of electricity consumption of consumer, such as fuel cost, interest on working capital, etc. Consumer related cost shall include operating expenses associated with meter reading, billing and accounting;
 - (b) **Allocation of Costs** –
 - (i) **Allocation of Demand Costs:** Demand costs various functions shall be allocated among consumer categories on the basis of average estimated demand of the consumer categories during different hours of the day and different seasons of the year;

- (ii) **Allocation of Energy Costs :** Energy related costs of Distribution functions shall be allocated to the consumer categories on the basis of incremental cost of power purchase by following merit order and block approach beyond the minimum common level of load factor:

Provided that the cost of additional 5% power kept as contingent surplus in accordance with these regulations may be allocated to all the consumer categories in proportion to the total electricity consumption of each category:

Provided further that the energy flows from HT system to EHT system during certain situations which are typically prevalent in Himachal Pradesh on account of small hydro projects shall also be duly considered while allocating the distribution losses to various categories of consumers;

- (iii) **Allocation of Customer Costs:** Customer related costs shall be allocated to consumer categories by assigning suitable weights duly taking into account to average consumption per consumer for various categories of consumers.”

By order of the Commission

Sd/-

Secretary.

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

NOTIFICATION

Shimla, 1st November, 2013

No. HPERC/F(5)(3)(1)(Retail).—In exercise of the powers conferred by sub-regulation (1) of regulation 35 and regulation 44 of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 and regulations 8 and 10 of the Himachal Pradesh Electricity Regulatory Commission (Guidelines and Formats for Tariff Filing) Regulations, 2005, read with section 21 of the General Clauses Act, 1897 (Act No. 10 of 1987) and all the powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission, hereby makes the following Order to revise the formats for the Multi Year Tariff filings by the distribution licensee for the control period starting from 1st April, 2014 and thereafter, namely:-

ORDER

1. Short title and commencement.—This Order may be called the Himachal Pradesh Electricity Regulatory Commission (Formats for Multi Year Tariff Filings by the Distribution Licensee) Order, 2013.

(2) This Order shall come into force on the date of its publication in the Rajpatra, Himachal Pradesh.

2. Definitions.—In this order, unless the context otherwise requires,-

(a) “Act” means the Electricity Act, 2003 (Act No. 36 of 2003);

- (b) "Annexure" means the annexure to this Order;
- (c) "Form" means the Form annexed to this Order;
- (d) "regulations" means the regulations made under the Act;
- (e) the words and expressions used and not defined in this Order but defined in the Act and the regulations framed thereunder shall have the meanings as assigned them in the Act.

3. Forms for Multi Year Tariff Filings by the Distribution Licensee:-

- (1) The Multi Year Tariff filing by the distribution licensee for the control period starting from the 1st day of April, 2014 and thereafter shall be in the Forms as given in the Annexure to this Order and hosted on hperc website www.hperc.org.
- (2) The Forms laid down in the Annexure to this Order, with such modifications or variations, as the circumstance of each case may require, shall be used for the purpose mentioned therein and where no Form is laid down to cover a contingency, Form as may be approved by the Commission shall be used.

By order of the Commission
Sd/-
Secretary.

Annexure

[See Para 3(1) of Order]

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HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

NOTIFICATION

Shimla, the 1st November, 2013

No. HPERC/F(5)(3)(1)(Gen).—WHEREAS the Himachal Pradesh Electricity Regulatory Commission has framed the HPERC (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission is making an exercise to determine the tariff for hydro generation system of the generators for the next control period starting from 1st April, 2014;

NOW, THEREFORE, in exercise of the powers conferred by clauses (zd), (ze) and (zf) of sub-section (2) of section 181, read with sections 61, 62 and 86, of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Himachal Pradesh Electricity Regulatory Commission makes the following amendments in the HPERC (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 published in the Rajpatra, Himachal Pradesh, dated 2nd April, 2011, namely:-

REGULATIONS

Short title, commencement and application.—(1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) (Second Amendment) Regulations, 2013.

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh and shall be applicable for the tariff orders to be issued for the control periods commencing with effect from 1st April, 2014 and thereafter.

1. Amendment of regulation 3.— In regulation 3 of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 (hereinafter called the “said regulations”) –

(a) after clause (2), the following clause (2-a) shall be inserted, namely:-

“(2-a) “**aggregate revenue requirement**” or “ARR” means the costs pertaining to hydro generating stations which are permitted, in accordance with these regulations, to be recovered from the tariffs and charges determined by the Commission;”.

(b) in clause (4) the words “annual performance review” wherever appearing, the words “mid-term performance review” shall be substituted.

(c) In clauses (19) and (20), for the figures “01.04.2011”, the words “first year of the control period” shall be substituted.

(d) after clause (23), the following clause (23-a) shall be inserted, namely:-

“(23-a) **“mid-term performance review”** or “MPR” means the review of performance of the generator undertaken by the Commission for the year after the middle year of the control period and this includes the True Up of the previous control period and True Up of previous years of the control period;”.

(e) in clause (24) for the figures “01.04.2011”, the figure and words “1st April of the first year of control period” shall be substituted.

(f) for clause (25) the following clause (25) shall be substituted, namely:-

“(25) **“Normative Annual Plant Availability Factor” or “NAPAF”** in relation to a generating station means the availability factor as specified in the regulation on ‘Operational Norms’;”.

2. Substitution of regulation 9.— For regulation 9 of the said regulations, the following regulation 9 shall be substituted, namely:-

“9. True Up

(1) The true up across various controllable parameters shall be conducted by the Commission, for the previous years for which the actual/audited accounts are made available by the generator, at the times and as per principles stated below: -

(A) at the times –

- (i) for the previous years of the previous control period:- along with the petition for determination of ARR cum generation tariff for the control period;
- (ii) for the previous years of the control period and for the previous control period:- along with the mid-term performance review during the control period; and
- (iii) for the control period true up:- along with the mid-term performance review of the next control period;

(B) as per principles –

- (i) the Commission shall review actual capital investment vis-à-vis approved capital investment;
- (ii) depreciation and financing cost, which includes cost of debt including working capital (interest), cost of equity (return) shall be trued up on the basis of actual/audited information and prudence check by the Commission; and
- (iii) any surplus and deficit on account of O&M expenses shall be to the account of the generating company and shall not be trued up in ARR.

(2) The gain or loss on account of other controllable factors, unless otherwise specifically provided by the Commission shall be to the account of the generating company.

- (3) Notwithstanding anything contained in these regulations, the gains or losses in the controllable items of ARR on account of force majeure, change in law and change in taxes and duties shall be passed on as an additional charge or rebate in ARR over such period as may be laid down in the order of the Commission.”

3. Amendment of regulation 10.—In regulation 10 of the said regulations, for the words “Short Term Prime Lending Rate of the State Bank of India” the words and figures “Base Rate of the State Bank of India plus 350 basis points” shall be substituted.

4. Amendment of regulation 11.—In sub-regulation (2) of regulation 11 of the said regulations, in the Eighth Proviso for the figures “01.04.2011” the words “the starting of the first year of the control period” shall be substituted.

5. Amendment of regulation 14.—At the end of sub-regulation (3) of regulation 14 of the said regulations, the following proviso shall be inserted, namely:-

“Provided that variations in capital cost of such Renovation and Modernization works on account of cost overruns beyond the value at which the works and/ or supplier are awarded to EPC contractors/ Suppliers, 100% of the variation shall be considered as part of the capital cost of the project if such can be attributed to a force majeure event or any other reason beyond the control of the generator and if such cannot be attributed to any reason beyond the control of the generator, then 50% of variation shall be considered as part of the capital cost of the project.”

6. Amendment of regulation 19.—In regulation 19 of the said regulations, for the words and figure “Short Term Prime Lending Rate of the State Bank of India as on the 1st April of the relevant year” the words and figures “average Base Rate of State Bank of India for the last six months prior to the filing of the MYT petition plus 350 basis points” shall be substituted.

7. Amendment of regulation 21.—In regulation 21 of the said regulations –

(a) for the sub-regulation (2), the following sub-regulation (2) shall be substituted, namely:-

“(2) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate as per latest available audited accounts of the generating company:

Provided that in line with the provisions of the relevant Finance Acts of the respective year, the return on equity with respect to the actual tax rate applicable to the generating company during the years of the control period shall be trued up separately for each year during the mid-term performance review and at the end of the control period along with the tariff petition filed for the next control period. ”

(b) in illustration (ii) to sub-regulation (3), for the figures and symbol “33.22%”, the figures and symbol “32.99%” shall be substituted.

8. Substitution of regulation 22.—For regulation 22 of the said regulations, the following regulation 22 shall be substituted, namely:-

“22. Operation and Maintenance (O&M) Expenses

(1) Operation and Maintenance (O&M) expenses shall comprise of the following:-

(a) salaries, wages, pension contribution and other employee costs;

- (b) administrative and general costs;
- (c) repairs and maintenance; and
- (d) other miscellaneous expenses including insurance costs, statutory levies and taxes (except corporate income tax).
- (2) Operation and maintenance expenses, for the existing generating stations which have been in operation for 3 years or more as on 31 March 2013, shall be derived on the basis of actual operation and maintenance expenses for the years 2010-11 to 2012-13, based on the audited balance sheets, excluding abnormal operation and maintenance expenses, if any, after prudence check by the Commission.
- (3) In case of hydro generating stations, which have been in commercial operation for less than 3 years as on 31 March 2013, the Operation and maintenance expenses shall be fixed at 2% of the original project cost, excluding cost of rehabilitation and resettlement works, and shall be escalated in accordance with the escalation principles specified in sub-regulation (6).
- (4) In case of the hydro generating stations declared under commercial operation on or after 1.4.2013, operation and maintenance expenses shall be fixed at 2% of the original project cost, excluding cost of rehabilitation and resettlement works, and shall be escalated in accordance with the escalation principles specified in subregulation (6).
- (5) Post, determination of base O&M Expenses for the generator/generating company in sub-regulation (2), the O&M expenses for the nth year and also for the year immediately preceding the control period, shall be approved based on the formula given below:-

$$O\&M_n = R\&M_n + EMP_n + A\&G_n:$$

Where –

‘O&M_n’ – Operation and Maintenance expenses for the nth year;

‘EMP_n’ – Employee Costs for the nth year;

‘R&M_n’ – Repair and Maintenance costs for the nth year;

‘A&G_n’ – Administrative and General Costs for the nth year; and –

$$EMP_n = [(EMP_{n-1}) \times (1+G_n) \times (CPI_{inflation})] + Provision_{(Emp)}$$

$$A\&G_n = [(A\&G_{n-1}) \times (WPI_{inflation})] + Provision_{(A\&G)}$$

$$R\&M_n = K \times (GFA_{n-1}) \times (WPI_{inflation}); \text{ and } -$$

EMP_{n-1} – Employee Cost of the generator for the (n-1)th year; (employee cost for the base year would be adjusted for provisions for expenses beyond the control of the licensee and one time expected expenses, such as recovery/

adjustment of terminal benefits, implication of pay revisions, arrears and interim relief);

‘Provision_(Emp)’ - Provision for expenses beyond control of the Generating company and expected one-time expenses as specified above;

A&G_{n-1} – Administrative and General Costs of the generator/generating company for the (n-1)th year;

Provision_(A&G): Cost for initiatives or other one-time expenses as proposed by the generating company and approved by the Commission after prudence check;

‘K’ is a constant to be specified by the Commission: % Value of K for each year of the control period shall be determined by the Commission in the MYT Tariff order based on generator/generating company’s filing, benchmarking of repair and maintenance expenses, approved repair and maintenance expenses vis-à-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;

CPI_{inflation} – is the average increase in the Consumer Price Index (CPI) for the three years immediately preceding the base year;

WPI_{inflation} – is the average increase in the Wholesale Price Index (CPI) for the three years immediately preceding the base year;

GFA_{n-1} – Gross Fixed Asset of the generator/generating company for the (n-1)th year;

G_n is a growth factor for the nth year: Value of G_n shall be determined by the Commission in the MYT tariff order for meeting the additional manpower requirement based on generator/generating company’s filings, benchmarking, approved cost by the Commission in past and any other factor that the Commission feels appropriate. The Commission may also determine the appropriate level of employees and provide a roadmap for rationalization of employees during the control period:

Provided that repair and maintenance expenses determined shall be utilized towards repair and maintenance works only.

- (6) O&M expenses determined in sub-regulations (3) and (4), shall be escalated for subsequent years to arrive at the O&M expenses for the control period by applying the Escalation factor (EF_k) for a particular year (Kth year) which shall be calculated using the following formula:

$$EF_k = 0.20 \times WPI_{Inflation} + 0.80 \times CPI_{Inflation}$$

Provided that, out of the O&M expenses so determined based on the above regulations, at least 30% shall be spent towards repair and maintenance activities:

Provided further that, the impact of pay revision (including arrears) shall be allowed on actual during the mid-term performance review or at the end of the

control period as per audited/unaudited accounts, subject to prudence check and any other factor considered appropriate by the Commission.”

9. Amendment of regulation 26.—In sub-regulation (7) of regulation 26 of the said regulations, for the words “eighty paise” wherever these occur, the words “one rupee fifteen [D1]paise” shall be substituted.

10. Amendment of regulation 33.—In regulation 33 of the said regulations, after the words “provisions of” the words, alphabets, figures and brackets “the regulations framed by the Central Electricity Authority (CEA) under section 177 (c) and” shall be inserted.

11. Substitution of regulation 34.—For regulation 34 of the said regulations, the following regulation 34 shall be substituted, namely:-

“34. Safety Standards

The generating company shall develop a safety manual and comply with regulations framed in this regard by the Central Electricity Authority (CEA) under section 53 and section 177 (2) (b) of the Act.”

12. Substitution of regulation 35.—For regulation 35 of the said regulations, the following regulation 35 shall be substituted, namely:-

“35. Multi-Year Fillings for the control period

(1) “For the Approval of the Commission, the multi-year ARR and tariff filing for each year of the control period consistent with the business plan, shall be done by the petitioner generator not less than 120 days before the commencement of the first year of the control period or such other date as may be directed by the Commission, in such form and in such manner as may be laid down by the Commission by an order and also as per the provisions of the Conduct of Business Regulations.

(2) The applicant shall also submit the multi-year ARR and tariff filing in electronic format to the Commission.”

13. Amendment of regulation 36.—In sub-regulation (1) of Regulation 36 of the said regulations, for the figure and words “on 1st April of”, the word “during” shall be substituted.

14. Substitution of regulation 37.—For regulation 37 of the said regulations, the following regulation 37 shall be substituted, namely:-

“ 37. Aggregate Revenue Requirement (Multi-year and MPR) and tariff filing during the control period

(1) The generator /generating company shall file not less than 120 days before the commencement of the first year of the control period or such other date as may be directed by the Commission, an application for approval of multi-year Aggregate Revenue Requirement (ARR) and determination of tariff for each year of the control period.

- (2) To address any mid-term changes on account of unexpected outcomes, the Commission shall undertake mid-term performance review of generating company's performance for the year after the mid year of the control period;
- (3) The generation company shall make a petition / application for mid-term performance review on the controllable / uncontrollable factors not less 120 days before the commencement of the year after the mid year of the control period as per principles laid down as follows:-
 - (a) In the mid-term performance review, the Commission shall make a comparison of the actual performance and expected revenue from tariff and charges vis-à-vis that approved in the first year of the Control period and the generation company shall submit to the Commission all information together with audited account statements, extracts of books of account and such other details in such form and in such manner as may be laid down by the Commission by an order and also as per the provisions of the Conduct of Business Regulations. The mid-term performance review shall comprise of the following:-
 - (i) true-up of previous control period;
 - (ii) true-up of previous years of control period for which audited accounts are made available by the generator company;
 - (iii) review of ARR for the balance years of the control period in case of any major change in uncontrollable and/ or controllable parameters;
 - (iv) review of generation tariff on account of modification in ARR for the balance years of the control period.
- (4) The generator/generation company shall furnish to the Commission, such additional information, particulars and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.
- (5) The generator/generation company shall publish, for the information of the public, the contents of the application in an abridged form in such manner as the Commission may direct and shall host the complete copy of the filing on its website and shall also provide copies of the documents filed with the Commission to any person at a price not exceeding normal photocopying charges.

Provided that the during the MPR, the Commission may revise the trajectories for various controllable parameters for the remaining period of the control period and this shall be deemed to give consequential effect to the ARR approved in the first year of the control period.”

15. Amendment of regulation 43.—For regulation 43 of the said regulations, the following regulation 43 shall be substituted, namely:-

“43. Tax on Income

In view of pre tax return on equity, tax on the income streams of the generating company shall not be recovered from the beneficiaries:

Provided that the deferred tax liability, excluding Fringe Benefit Tax, for the period up to end of previous control period, whenever it materializes, shall be recoverable directly from the beneficiaries and the long-term customers.”

By order of the Commission
Sd/-
Secretary.

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

NOTIFICATION

Shimla, 1st November, 2013

No. HPERC/F(5)(3)(1)(Gen).—In exercise of the powers conferred by sub-regulation (1) of regulation 35 and regulation 47 of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 and regulations 8 and 10 of the Himachal Pradesh Electricity Regulatory Commission (Guidelines and Formats for Tariff Filing) Regulations, 2005, read with section 21 of the General Clauses Act, 1897 (Act No. 10 of 1987) and all the powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission, hereby makes the following Order to revise the formats for the Multi Year Tariff filings by the generating company for the control period starting from 1st April, 2014 and thereafter, namely:-

ORDER

1. Short title and commencement.—This Order may be called the Himachal Pradesh Electricity Regulatory Commission (Formats for Multi Year Tariff Filings by the Generating Company) Order, 2013.

(2) This Order shall come into force on the date of its publication in the Rajpatra, Himachal Pradesh.

2. Definitions.—In this order, unless the context otherwise requires,-

- (a) “Act” means the Electricity Act, 2003 (Act No. 36 of 2003);
- (b) “Annexure” means the annexure to this Order;
- (c) “Form” means the Form annexed to this Order;
- (d) “regulations” means the regulations made under the Act;
- (e) the words and expressions used and not defined in this Order but defined in the Act and the regulations framed thereunder shall have the meanings as assigned them in the Act.

3. Forms for Multi Year Tariff Filings by the Generating Company:-

- (1) The Multi Year Tariff filing by the generating company for the control period starting from the 1st day of April, 2014 and thereafter shall be in the Forms as given in the Annexure to this Order and hosted on hperc website www.hperc.org.

- (2) The Forms laid down in the Annexure to this Order, with such modifications or variations, as the circumstance of each case may require, shall be used for the purpose mentioned therein and where no Form is laid down to cover a contingency, Form as may be approved by the Commission shall be used.

By order of the Commission
Sd/-
Secretary.

Annexure

[See Para 3(1) of Order]

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HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

NOTIFICATION

Shimla, the 1st November, 2013

No. HPERC/F(5)(3)(1)(Trans).—WHEREAS the Himachal Pradesh Electricity Regulatory Commission has framed the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission is making an exercise to determine the tariff for transmission system of the licensees for the next control period starting from 1st April, 2014;

NOW THEREFORE, in exercise of the powers conferred by clauses (zd), (ze) and (zf) of sub-section (2) of section 181, read with sections 61, 62 and 86, of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Himachal Pradesh Electricity Regulatory Commission makes the following amendments in the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, published in the Rajpatra, Himachal Pradesh, dated 2nd April 2011, namely:-

REGULATIONS

Short title, commencement and application.—(1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) (First Amendment) Regulations, 2013.

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh and shall be applicable for the tariff orders to be issued for the control periods commencing with effect from 1st April, 2014 and thereafter.

1. Amendment of regulation 3.—In regulation 3 of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011 (hereinafter called the “said regulations”) –

(a) for clause (21), the following clause (21) shall be substituted, namely:-

“(21) **“existing project”** means a project declared under commercial operation from a date prior to first year of the control period; ”,

(b) after clause (28), the following clause (28-a) shall be inserted, namely:-

“(28-a) **“mid-term performance review”** means the review of performance of the transmission licensee undertaken by the Commission for the year after the mid-year of the control period and this shall also include the true up of the previous control period and True Up of previous years of the control period; ” and

(c) in clause (39) for the words and figures “mainly of extra high voltage electric lines having design voltage of above 33 kV”, the words and figures “of high and extra high voltage electric lines having design voltage of 33 kV and above” shall be substituted.

2. Amendment of regulation 7.— In regulation 7 of the said regulations –

(a) in sub-regulation (3) for the words “CEA/CTU/STU”, the words “CEA/CTU/STU/Distribution Licensee(s)” shall be substituted; and

(b) for sub-regulation (4), the following sub-regulation (4) shall be substituted, namely:-

“(4) For each year of the control period, the Commission shall watch over the actual capital expenditure and capitalization vis-à-vis the approved capital expenditure and capitalization schedule. In the normal course, the Commission shall not revisit the approved capital investment plan (capital expenditure and the capitalization schedule) during the control period and adjustments to depreciation, interest on capital loan and return on equity on account of variations for the actual capital expenditure incurred and capitalization done vis-à-vis approved capital investment plan (capital expenditure and capitalization), shall be done during the mid-term performance review and at the time of end of control period true up.”

3. Amendment of regulation 10.—For regulation 10 of the said regulations, the following regulation 10 shall be substituted, namely:-

“10. True Up

(1) The true up across various controllable parameters shall be conducted by the Commission, for the previous years for which the actual/audited accounts are

made available by the Transmission Licensee, at the times and as per principles stated below:-

- (a) at the times –
 - (i) for the previous years of the previous control period:- along with the petition for determination of ARR cum transmission tariff for the control period;
 - (ii) for the previous years of the control period and for the previous control period:- along with the mid-term performance review during the control period;
 - (iii) for the control period true up:- along with the mid-term performance review of the next control period;
- (b) as per principles –
 - (i) the Commission shall review actual capital investment vis-à-vis approved capital investment;
 - (ii) depreciation and financing cost, which includes cost of debt including working capital (interest), cost of equity (return) shall be trued up on the basis of actual/audited information and prudence check by the Commission;
 - (iii) any surplus and deficit on account of O&M expenses shall be to the account of the Transmission Licensee and shall not be trued up in ARR; and
- (2) The gain or loss on account of other controllable factors, unless otherwise specifically provided by the Commission shall be to the account of the Transmission Licensee.
- (3) Notwithstanding anything contained in these regulations, the gains or losses in the controllable items of ARR on account of force majeure, change in law and change in taxes and duties shall be passed on as an additional charge or rebate in ARR over such period as may be laid down in the order of the Commission.”

4. Amendment of regulation 13.—In regulation 13 of the said regulations –

- (a) immediately after the existing sub-regulation (1), the following sub-regulation (1-a) shall be inserted, namely:-
 - “(1-a) **O&M Norms** –
 - (i) The transmission licensee shall propose separate trajectories of norms for each of the components of O&M expenses viz., employee cost, R&M expense and A&G expense;
 - (ii) Norms shall be defined in terms of combination of number of personnel per long/medium term consumer, number of personnel per MW of capacity

handled for long/ medium term consumers or number of personnel per transmission circuit kilometer line length and number of substations along with annual expenses per personnel for Employee expenses, combination of A&G expense per personnel and A&G expense per long/ medium term consumer (or per MW of capacity handled) for A&G expenses and R&M expense as percentage of gross fixed assets for estimation of R&M expenses;

- (iii) One-time expenses such as expense due to change in accounting policy, arrears paid due to pay commissions and interim relief etc., shall be excluded from the norms in the trajectory;
 - (iv) The expenses beyond the control of the transmission licensee such as dearness allowance, pension liabilities and terminal benefits in Employee cost etc., shall be excluded from the norms in the trajectory;
 - (v) The One-time expenses and the expenses beyond the control of the transmission licensee as per sub-regulations (iii) and (iv) above shall be allowed by the Commission over and above normative Operation & Maintenance Expenses after prudence check;
 - (vi) The norms in the trajectory shall be proposed over the control period with due consideration to productivity improvements and commercial viability;
 - (vii) The norms shall be proposed at constant prices of base year and escalation on account of inflation shall be over and above the baseline;
 - (viii) Based on the proposal submitted by the transmission licensee, the Commission shall fix the norms for the said purposes which shall be taken into account for determining the trajectories for various components of O&M expenses for the remaining years of the control period;
 - (ix) Till such time the norms are fixed by the Commission, the trajectories of various components of O&M expenses shall be submitted by the transmission licensee and determined by the Commission on the basis of the actual costs for the previous years in accordance with the provisions of these regulations;”
- (b) for the existing sub-regulation (3), the following sub-regulation (3) shall be substituted, namely:-

“(3) The O&M expenses for the n^{th} year of the control period shall be approved based on the formula given below:-

$$O\&M_n = R\&M_n + EMP_n + A\&G_n :$$

Where –

$$‘EMP_n’ = [(EMP_{n-1}) \times (1+G_n) \times (CPI_{inflation})] + Provision(EMP) ;$$

$$‘A\&G_n’ = [(A\&G_{n-1}) \times (WPI_{inflation})] + Provision(A\&G) ;$$

$$‘R\&M_n’ = K \times (GFA_{n-1}) \times (WPI_{inflation}) ;$$

- ‘K’ - is a constant (could be expressed in %). Value of K for each year of the control period shall be determined by the Commission in the MYT Tariff order based on licensee’s filing, benchmarking of repair and maintenance expenses, approved repair and maintenance expenses vis-à-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;
- ‘CPI_{inflation}’ – is the average increase in the Consumer Price Index (CPI) for immediately preceding three years before the base year;
- ‘WPI_{inflation}’ – is the average increase in the Wholesale Price Index (WPI) for immediately preceding three years before the base year;
- ‘EMP_n’ – employee’s cost of the transmission licensee for the nth year (employee cost for the base year would be adjusted for provisions for expenses beyond the control of the licensee and one time expected expenses, such as recovery/ adjustment of terminal benefits, implication of pay revisions, arrears and interim relief.);
- ‘Provision_(Emp)’ - Provision corresponding to clauses (iii), (iv) and (v) of subregulation (1-a) of regulation 13, duly projected for relevant year for expenses beyond control of the Transmission Licensee and expected one-time expenses as specified above;
- ‘A&G_n’ – administrative and general costs of the transmission licensee for the nth year;
- ‘Provision_(A&G)’ - Cost for initiatives or other one-time expenses as proposed by the Transmission licensee and approved by the Commission after prudence check;”
- ‘R&M_n’ – Repair and Maintenance costs of the transmission licensee for the nth year;
- ‘GFA_{n-1}’ – Gross Fixed Asset of the transmission licensee for the n-1th year;
- ‘G_n’ - is a growth factor for the nth year. Value of G_n shall be determined by the Commission in the MYT tariff order for meeting the additional manpower requirement based on licensee’s filings, benchmarking, approved cost by the Commission in past and any other factor that the Commission feels appropriate;

Provided that, repair and maintenance expenses determined shall be utilised towards repair and maintenance works only;

Provided further that, the impact of pay revision (including arrears) shall be allowed on actual during the mid-term performance review or at the end of the control period as per actual/ audited accounts, subject to prudence check and any other factor considered appropriate by the Commission.”

5. Amendment of regulation 14.—In sub-regulation (2) of the said regulations, for the Fourth Proviso, the following Fourth Proviso shall be substituted, namely:

“Provided further that in case of the existing projects, the capital cost admitted by the Commission prior to the start of the control period and the additional capital expenditure projected to be incurred for the respective years of the control period, as may be admitted by the Commission, shall form the basis for determination of tariff.”

6. Amendment of regulation 16.—For the proviso to clause (c) of sub regulation (2) of regulation 16 of the said regulations, the following proviso be substituted, namely:--

“Provided that any expenditure on acquiring the minor items or the assets like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date, shall not be considered for additional capitalization for the purpose of determination of tariff during the control period”

7. Amendment of regulation 19.—In regulation 19 of the said regulations –

(a) for the sub-regulation (2) and its proviso, the following sub-regulation (2) shall be substituted namely:-

“(2) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate as per latest available audited accounts of the concerned transmission licensee:

Provided that in line with the provisions of the relevant Finance Acts of the respective year, the return on equity with respect to the actual tax rate applicable to the transmission licensee during the years of the control period shall be trued up separately for each year during the mid-term performance review and at the end of the control period along with the tariff petition filed for the next control period.”; and

(b) in illustration (ii) to sub-regulation (3), for the figures and symbol “33.22%”, the figures and symbol “33.99%” shall be substituted.

8. Amendment of regulation 22.—In regulation 22 of the said regulations, for the words and figure “Short Term Prime Lending Rate of the State Bank of India as on the 1st April of the relevant year” the words and figures “Average Base Rate of State Bank of India for the last six months prior to the filing of the MYT petition plus 350 basis points” shall be substituted.

9. Amendment of regulation 26.—In regulation 26 of the said regulations, for the words “Short Term Prime Lending Rate of the State Bank of India” the words and figures “Base Rate of the State Bank of India plus 350 basis points” shall be substituted.

10. Substitution of regulation 30.—For regulation 30 of the said regulations, the following regulation 30 shall be substituted, namely:-

“30. Safety Standards

The transmission licensee shall develop a safety manual and comply with regulations framed in this regard by the Central Electricity Authority (CEA) under section 53 and section 177 (2) (b) of the Act.”

11. Amendment of regulation 31.—at the end of the sub regulation (1) of regulation 31 of the said regulations, the following proviso be inserted, namely:-

“Provided that the Commission during the control period, through separate notification in the Rajpatra Himachal Pradesh, may, after conducting a detailed study change the existing transmission pricing framework in accordance with that adopted by the Central Electricity Regulatory Commission.”

12. Amendment to regulation 37.— In regulation 37 of the said regulations,

(a) for the words and figure “The transmission licensee shall file for the Commission’s approval, on 1st April of the year preceding the first year of the control period or any other date as may be directed by the Commission, a business plan approved by its board of directors. The business plan shall be for the entire control period and shall, inter-alia, contain-”, the words “In the base year, prior to the filing of multi-year ARR cum Tariff petition, the transmission licensee shall file a business plan approved by its board of directors. The business plan shall be for the entire control period and shall, inter-alia, contain -” shall be substituted; and

(b) in sub-regulation (d) for the words “on the on the”, the words “on the” shall be substituted.

13. Amendment of regulation 38.—For the existing sub-regulation (1) of Regulation 38 of the said regulations, the following sub-regulation (1) shall be substituted, namely:-

“(1) The transmission licensee shall file an application for approval of transmission tariff for each year of the control period consistent with the approved business plan, not less than 120 days before the commencement of the first year of the control period or such other date as may be directed by the Commission.”

14. Substitution of regulation 39.—For regulation 39 of the said regulations, the following regulation 39 shall be substituted, namely:-

“39. Mid-term Performance Review and Review at the End of the Control Period

(1) **Mid-term performance review** - The transmission licensee shall make an application for mid-term Performance Review within 120 days before the commencement of the fourth year of the Control Period i.e. FY 2017-18:-

The scope of the mid-term Performance Review shall be a comparison of the actual performance with the approved forecast of Aggregate Revenue

Requirement and expected revenue from tariff and charges The transmission licensee shall submit to the Commission all information together with audited account statements, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in performance from the approved forecast. The mid-term review shall comprise of the following:

- (i) True-up of previous Control Period
 - (ii) A comparison of the actual/audited performance with the approved forecast for first two financial years of the Control Period, subject to the prudence check including pass-through of impact of uncontrollable factors;
 - (iii) Review of controllable parameters
 - (iv) Review of ARR for the balance of the control period in case of any major change in uncontrollable and/or controllable parameters (v) Review of transmission charges on account of modification in ARR for the balance control period.
- (2) **Review at the end of control period**—The transmission licensee shall also make an application for Comprehensive Review after the end of the third Control Period on availability of audited accounts for each year of the control period. The comprehensive review shall be based as per the principles laid down under these Regulations for various parameters of ARR:
- Provided that the transmission licensee shall submit to the Commission information in such format as may be stipulated by the Commission, together with the audited account statements, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges.
- (3) Towards the end of the control period, the Commission shall review if the implementation of the principles laid down in these regulations has achieved their intended objectives. While doing this, the Commission shall take into account, among other things, the industry structure, sector requirements, consumer and other stakeholder expectations and the licensee's requirements at that point in time. Depending on the requirements of the sector to meet the objects of the Act, the Commission may revise the principles for the next control period.
 - (4) The end of the control period shall be the beginning of the next control period and the licensee shall follow the same procedure, unless required otherwise by the Commission. The Commission shall analyze the performance of the licensee with

respect to the targets set out at the beginning of the control period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next control period.”

- 15. Amendment of regulation 43.**—In the Proviso to existing regulation 43 of the said regulations, the date “31st March, 2011” shall be substituted with the words “the end of previous control period,”

By Order of the Commission
Sd/-
Secretary.
